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Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-50
Table of Allotments,)	RM-8995
FM Broadcast Stations.)	
(Ocean Shores, Washington))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 4, 1998;

Released: February 13, 1998

By the Chief, Allocations Branch:

1. At the request of Ryan Broadcasting Company ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 1437 (1997), proposing the allotment of Channel 292A at Ocean Shores, Washington, as the community's first local aural transmission service. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. Jodesha Broadcasting, Inc. ("Jodesha"), permittee of Station KFMV(FM), Channel 289C3, South Bend, Washington, filed comments and a "counterproposal." Untimely comments were filed by New Century Seattle, L.P. ("New Century"), licensee of Station KUBE(FM), Channel 227C, Seattle, Washington.¹ For the reasons discussed below, we are allotting Channel 228A at Ocean Shores, Washington.

2. As stated in the Notice, Ocean Shores is located in Grays Harbor County, Washington, and has a 1990 U.S. Census population of 2,301 persons. Petitioner asserts that the proposal is in the public interest since it would provide the community with its first local aural transmission service.

3. In its comments, Jodesha advises that there are four alternate Class A channels that can be allotted to Ocean Shores in lieu of Channel 292A as proposed in the Notice. Jodesha

¹Although New Century's comments were accompanied by a motion for leave to accept, the Commission's Rules do not contemplate the filing of pleadings beyond the established comment period, unless specifically requested or authorized by the Commission. Therefore, the comments will not be accepted for consideration. See Section 1.415(d) of the Commission's Rules. Moreover, an engineering analysis refutes New Century's claim that the allotment of alternate Channel 228A at Ocean Shores would adversely impact the ability of Gray Harbor County listeners to receive Station KUBE(FM)'s signal.

asserts that the use an alternate channel would eliminate the mutual exclusivity of petitioner's proposal with its pending one-step upgrade application for the substitution of Channel 289C2 for Channel 289C3 at South Bend, Washington.² Jodesha contends that the allotment of an alternate channel would serve the public interest since it would allow both the allotment of a Class A channel at Ocean Shores and the grant of Jodesha's upgrade application at South Bend.

4. We believe the public interest would be served by allotting Channel 228A at Ocean Shores, Washington, since it would provide the community with its first local aural transmission service. An engineering analysis has determined that Channel 228A can be allotted at Ocean Shores in compliance with the Commission's minimum distance separation requirements at city reference coordinates.³ Since Ocean Shores is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been obtained.

5. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 30, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Ocean Shores, Washington	228A

6. A filing window for Channel 228A at Ocean Shores, Washington, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

²Jodesha simultaneously filed a one-step upgrade application (File No. BMPH-9703261H) requesting the substitution of Channel 289C2 for Channel 289C3 at South Bend, Washington, pursuant to FM Channel and Class Modifications by Application, 8 FCC Rcd 4735 paras. 17, 18 (1993). However, since the application was filed after the instant petition for rule making, the application has to be considered as a counterproposal in the context of this proceeding unless the conflict can be eliminated by the use of a site restriction, an alternate channel for the rule making petition, or the applicant amends its application. See Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments, 8 FCC Rcd 4743 n. 12 (1993). Here, an engineering analysis has determined that alternate Channel 228A can be allotted at Ocean Shores, Washington, to resolve the conflict.

³The coordinates for Channel 228A at Ocean Shores are North Latitude 46-57-47 and West Longitude 124-09-50.

8. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau